

ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU



Advisory Opinion No. 152

The question is whether a conflict of interest exists between a City employee's duties as a landscape architect and his outside employment as a landscape consultant.

The Ethics Commission [Commission] understands the facts to be as follows:

1. The employee is a landscape architect for the City and County of Honolulu.
2. The employee has an outside business providing landscape consultant services during evenings and weekends.
3. In the employee's business, he sometimes is required to seek approval from City departments for cross-connection sprinkler systems for his clients.

The general rules appear in two standards of conduct, Revised Charter of Honolulu 1973 (1983 Ed.) Sections 11-102.3 and 11-102.5. Section 11-102.3 states:

No elected or appointed officer or employee shall . . .
[e]ngage in any business transaction or activity or have a financial interest, direct or indirect, which is incompatible with the proper discharge of his official duties or which may tend to impair his independence of judgment in the performance of his official duties.

Section 11-102.5 states:

No elected or appointed officer or employee shall . . .
[r]epresent private interests in any action or proceeding
against the interests of the city or appear in behalf of private interests before any agency,
except as otherwise provided by law.

The Commission finds that it would not be incompatible, under RCH Section 11-102.3, for the employee to continue his outside business so long as it is kept separate and apart from his City employment and in no way interferes with his City employment. The employee, however, cannot represent any clients before City agencies due to the prohibition found in RCH Section 11-102.5. There are no exceptions provided by law to RCH Section 11-102.5, which are applicable to this situation, so the absolute prohibition against appearing in behalf of private interests before City

agencies applies.

Date: July 31, 1985

GILBERT A. GIMA
Chair, Ethics Commission